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CBS-Westmoreland Trial Conjures War's Aura

Testimony Recalls Months Before Tet Offensive

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Thrust back 17 years in a time warp that could bring on a second public reckoning of a crucial period of the Vietnam war, former ambassador Robert W. (Blowtorch) Komer last week talked of the hidden enemy, the "ghost" warriors of Southeast Asia.

NEWS ANALYSIS

Komer, testifying in retired Army general William C. Westmoreland's $120 million libel action against CBS Inc., said it was hard sometimes to keep the South Vietnamese military "honest" about counting communist forces, a key issue in this trial. He said it was difficult to count the "home guard" because they were "dressed in black pajamas just like everybody else."

Such language from the former chief of President Johnson's "pacification" program helped produce an odd aura in this U.S. District courtroom in lower Manhattan. It provoked a flashback for those who had lived through the war in the crucial months before the Tet Offensive in January 1968.

For those watching the first act in this long drama, Komer was one of the phantoms of a turbulent era in Vietnam—an echo of the days when the Blowtorch, as Komer was nicknamed for his forceful personality, would lay out briefings in a loud, firm voice reminiscent of The Great Gildersleeve's.

When Johnson's national security affairs adviser, Walt W. Rostow, took the stand last week, he too dredged up disturbing memories of one of the most divisive periods in contemporary American history.

As Baltimore Sun correspondent Henry Trewhitt said last week, "I can't tell you how many Friday afternoons I spent in Walt Rostow's office listening to him as an ardent salesman for Johnson's views."

Rostow, his round glasses still dominating the face that looks over LBJ's shoulder in dozens of photos, appeared to feel the sense of deja vu provoked by this trial. As he left the courtroom, he shook his head and said, "bizarre," to no one in particular.

Rostow, with Komer, Westmoreland and a stream of other luminaries from the Johnson days who are scheduled to testify in the next few weeks, face, in some ways, a second public hearing on their version of the U.S. loss in Southeast Asia.

For the names that made headlines during this period—former secretary of State Dean Rusk, former CIA directors Richard Helms and William Colby, and possibly even former secretary of Defense Robert S. McNamara, who could be called to the stand—souvenirs of a distant war are being reviewed in a less judgmental era. Once the villains, they now have the floor at a time when their adversaries—a major representative of the news media—are having difficulties with public perception.

The jury may be another matter in their favor. Westmoreland and his peers are being judged by citizens who were barely touched by the war—no deaths in their families, no time in the service, no close friends or boyfriends lost in action. The closest connection may be one alternate juror whose daughter broke up with her boyfriend when he went into the Army.

The trial is not supposed to be a refighting of the Vietnam war. The issue here, as hammered constantly by the mild-mannered U.S. District Court Judge Pierre Leval, is whether CBS libeled Westmoreland when a 1982 documentary suggested that the general kept from his superiors, in particular Johnson, bad news about higher enemy troop estimates.

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But for the first six weeks of this trial, when Westmoreland's lawyer Dan M. Burt is entitled to present his side and to call in his friendly witnesses, the courtroom is destined to become a forum for what one journalist called the walking wounded from among the best and the brightest.

And as they tell their story, primarily how they operated during the crucial months before the massive communist offensive on the Vietnamese Tet holiday in 1968—the fallout is another official record.

For example, documents being used in the trial already appear to confirm the suspicions of journalists and historians about the way the military, including Westmoreland's Military Assistance Command, Vietnam, dealt with a skeptical press corps, and thus with a disillusioned public.

Westmoreland's attorney has unveiled cables that he hopes will prove that Westmoreland told the White House about higher estimates of communist strength in August 1967. In one "backchannel cable" from the late Ellsworth Bunker, who was ambassador in Saigon, Bunker said, "I need hardly mention the devastating impact if it should leak out (as these things so often do) that despite all our success in grinding down [the enemy] here, CIA figures are used to show that they are really much stronger .... Despite all caveats, this is [the] inevitable conclusion which most of [the] press would reach."

About two weeks later, Bunker cabled that "after very constructive discussions and study here, Washington and Saigon have reconciled enemy order of battle figures. Westy and I are both happy with the results . . . ," which included cutting the 430,000-to-490,000 enemy figure from the CIA closer to an Army estimate of 285,000.

The CBS documentary, "The Uncounted Enemy: A Vietnam Deception," charged that the public, Congress and the president were told that the enemy was "running out of men" shortly before the Tet uprising. The surprise attack has been considered a turning point in the war, primarily because it sapped much of the U.S. public support for the effort in Southeast Asia.

But Westmoreland's case rests primarily on his ability to disprove the CBS charge that he misled his superiors.

In a careful distinction on this point, Burt told reporters before the trial that he was not acknowledging or agreeing that Westmoreland did deceive the public and the press, but that some of the documentation seems to provide mounting support for CBS in this regard.

In a document made available by CBS, Rostow criticized the television program in a personal memo to himself, saying that it did not make clear that Westmoreland "was dealing in Saigon and the United States with a media heavily biased against the war.

"On the whole, I found the [CBS] broadcast a more corrupt effort than CBS distorted broadcasts during the war itself," Rostow said in his memo. "Then, great and understandable passions were involved."

Now the passions have been tamed, funneled into court briefs and lawyers' arguments. And although $120 million is at stake, along with the reputations of Westmoreland as a general and CBS as a news organization, the courtroom is a quiet forum compared with the marches and the anger of the 1960s.

Because the issue involves numbers—whether Westmoreland sent along order-of-battle summaries that showed opposition strength vastly larger than official estimates—the legal struggle is a technical one. What numbers did Westmoreland tell the president, and when did he tell him?

With almost 400,000 pages of documents passing through the courtroom, the trial is not so much a rematch of the war itself as of the internal war in 1967 between the Army and the CIA, a war of documents. George Carver, then the CIA's special assistant on Vietnam affairs, once called it "this paper war."

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